

Date signed August 17, 2004



Paul Mannes

PAUL MANNES
U. S. BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
at Greenbelt

IN RE: :

RICHARD ANTHONY PLATER : Case No. 04-18641PM
: Chapter 13
Debtor - Movant

Daimler Chrysler Services
North America LLC

Respondent

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MEMORANDUM OF DECISION

The Debtor filed a motion pursuant to 11 U.S.C. § 506(b) for this court to render a valuation of his 1997 Mercedes-Benz S-Class S320 SWB 4-Door Sedan. The Respondent filed a proof of claim in the total amount of \$30,112.91, with \$20,825.00 said to be the value of the collateral, making the balance of the claim an unsecured claim without priority. This motion, if granted, implements Debtor's Plan that proposes to cramdown the claim to Debtor's asserted valuation of \$12,335.00. Debtor bases his estimation upon a Kelley Blue Book Report listing for a private party sale value of a vehicle in good condition. DaimlerChrysler Services uses a valuation based upon what it terms as the Gold Book that states that a dealer would try to sell the vehicle for \$20,825.00. The Gold Book approach is to fix a price for a sale of a vehicle in excellent condition with appropriate dealer warranty.

The court is left to choose between two cited authorities. However, it is reasonable to assume, and the court so finds, that the replacement value of a 7-year-old vehicle with 125,000 miles is not the price that a retail dealer would seek to obtain for the vehicle, were it to have such an automobile in its

stock but rather is replacement value without the bells and whistles often provided by dealers selling "previously owned" vehicles. *Associates Commercial Corp. v. Rash*, 520 U.S. 953, 965 (1997). Obviously, the Debtor here does not have the benefits of dealer warranties, assurances or reconditioning.

On the whole, the court finds the Debtor's estimation of value closer to replacement value than that asserted by the creditor. An appropriate order will be entered.

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End of Memorandum Decision